

BOOSTEN -- Appln. No.: 10/597,749

REMARKS

The Office Action dated October 1, 2009, has been reviewed and carefully considered. Reconsideration and allowance in view of the following remarks are respectfully requested.

With entry of this Amendment, claims 18-35 are pending in the present application. Claims 1-17 were previously cancelled.

Claims 27-35 stand rejected under 35 U.S.C. 112

The Examiner rejects claims 27-35 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states that claim 27 does not positively recite a step for controlling an interventional procedure in an organ of a patient.

Applicant respectfully disagrees. Claim 27 recites "providing an intervention device comprising...a displaceable catheter..." and "providing a computing unit configured to carry out the steps...controlling the navigation system to apply the navigational correction to the position of the displaceable catheter..." The catheter is part of the intervention device that is used in the interventional procedure, so controlling the navigation system to apply the navigational correction to the position of the catheter is, from Applicant's perspective, a controlling of the interventional procedure.

In addition, although claim 18 recites a *system* for controlling an interventional procedure in an organ of a patient (as compared to a method as set forth in claim 27), claim 18 uses wording that is similar to that discussed above in connection with claim 27. If Applicant's arguments set forth above are not satisfactory, Applicant respectfully requests the Examiner to explain why the wording in claim 18 is acceptable but the wording in claim 27 is not.

In view of the above, reconsideration and withdrawal of the rejections are respectfully requested.

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Claims 18-35 stand rejected under 35 U.S.C. §102(e)

The Examiner rejects claims 18-35 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2005/0033149 (Strommer). Applicant respectfully traverses this rejection for the reasons presented below.

Independent claim 18 recites, *inter alia*, "...an intervention device comprising...a displaceable catheter, and a stereotactic navigation system to position the...displaceable catheter...a computing unit configured to carry out the steps...***generating a spatial roadmap representing an envisaged trajectory of the displaceable catheter*** within the coordinate system...***determining a discrepancy between the spatial position of the displaceable catheter and the roadmap and calculating a navigational correction***; and ***controlling the navigation system to apply the navigational correction to the position of the displaceable catheter...***" The Strommer reference fails to teach or suggest at least the distinctions emphasized above in bold and italics.

The Strommer reference sets forth a method and system for registering an image acquired in one coordinate system with another image acquired in another coordinate system. Although Strommer also discloses a moving mechanism to move an item such as a therapeutic device or an imager (for example, see paragraphs such as 27-30, 130-132, 140-145, 157, and 183-190 of Strommer), there clearly is no application of a navigational correction to the position of an item that is calculated based on the discrepancy that is determined between the spatial position of that item and a spatial roadmap representing an envisaged trajectory of the item.

For the reasons presented above, Applicant respectfully submits that the Strommer reference fails to disclose or suggest each and every element of claim 18. Accordingly, claim 18 is in condition for allowance, and Applicant respectfully requests that the rejection thereof be withdrawn.

Claims 19-26 depend directly from claim 18 and, therefore, are also in condition for allowance, at least by virtue of their dependency on an allowable base claim. Accordingly, Applicant respectfully requests that rejection thereof be withdrawn.

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Independent claim 27 includes substantially the same limitations as independent claim 18, and is thus also in condition for allowance for substantially similar reasons. Therefore, Applicant respectfully requests that the rejection thereof be withdrawn.

Claims 28-35 depend directly from claim 27 and, therefore, are also in condition for allowance, at least by virtue of their dependency on an allowable base claim. Accordingly, Applicant respectfully requests that rejection thereof be withdrawn.

It should be noted that the Applicant has not specifically addressed each rejection of the dependent claims. Any rejection of a dependent claim not specifically addressed herein is not to be construed as an admission by the Applicant of the correctness of that rejection. Rather, the Applicant believes that the independent claims are patentably distinguishable over the cited references for the reasons noted above, so that the rejection of the dependent claims need not be addressed at this time. Applicant reserves the right to specifically address the rejection of any dependent claim at a later time should that become warranted.

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Summary and Conclusion

In summary, it is submitted that all of the pending claims, claims 18-35, are patentably distinguishable over the references of record. All objections and rejections have been addressed.

It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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Note: The Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 14-1270.